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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,138	09/26/2003	Jeffrey V. Bamber		6104

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MASON, OH 45040

EXAMINER

WELCH, GARY L

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/672,138	BAMBER, JEFFREY V.	
	Examiner	Art Unit	
	Gary L. Welch	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 7-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7, 9 and 10 is/are rejected.
- 7) ☒ Claim(s) 8 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08).
Paper No(s)/Mail Date <u>12222004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment, filed 8 November 2004, has been reviewed and considered. Claims 4-6 are withdrawn and new claims 7-11 are added. Therefore, claims 1-3 and 7-11 are currently pending.
2. The applicant traverses the 35 U.S.C. 103(a) rejections to claims 1-3 as being unpatentable over Feuerhake (U.S. 5,704,065) in view of Yamamoto et al. (U.S. 5,373,712).

Firstly, Applicant agrees that Feuerhake discloses a golf glove having a fastener comprised of hooks and loops. However, Applicant states that the patches of hooks and loops of Feuerhake are fastened to another material (i.e., the underlying material of the glove, leather). Applicant further states that by replacing the hook and loop fastener of Feuerhake with the air permeable fastener taught by Yamamoto et al. would not necessarily result in a breathable fastening system if the underlying material is also not breathable, or if any pores in the underlying material do not align with the vents in the surface fastener described in Yamamoto et al.

Examiner's Response: The material on which the hook and loop fastener is attached thereto is leather which is conventional in the art for golf gloves.

Leather is a natural breathable material and as such is chosen in articles of clothing such as gloves and shoes. An additional support reference is provided in this action (U.S. 6,260,288 Barthelemy et al.). Barthelemy discloses that

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leather is a breathable material (col. 4, lines 5-7). Therefore, the modification of Feuerhake in view of Yamamoto et al. would result in a breathable fastening system.

Secondly, the Applicant states that the examiner has not cited any basis for supporting that the fastener of Yamamoto et al. is equivalent to the fastener of Feuerhake with regard to securing capability and function.

Examiner's Response: The fastening system of Yamamoto et al. comprises a loop portion 4 and a hook portion 6 and is described as a ventilated fastener. Therefore, the fastener of Yamamoto et al. is functionally equivalent to the fastener of the instant application. There is no performance characteristics claimed that would define over Yamamoto et al.

Therefore, the rejections raised in the first Office Action are maintained.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-3, 7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feuerhake (U.S. 5,704,065) in view of Yamamoto et al. (U.S. 5,373,712).

Feuerhake discloses a sports glove having a fastener comprised of hook and loops.

However, Feuerhake does not disclose that the fastener is breathable.

Yamamoto et al. teaches an air permeable fastener. The air permeable fastener is comprised of pile loops and hooks (Col. 2, lines 8-32). Therefore, the air permeable fastener of Yamamoto et al. is equivalent to the fastener of Feuerhake with regard to its securing capability with the added benefit of it being air permeable.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the hook and loop fastener of Feuerhake with the air permeable fastener taught by Yamamoto et al. since the function of securing is equivalent with the added benefit of air permeability so as to allow air flow to reach the user's hand when the glove is worn.

With regard to claims 2-3, the invention is disclosed above.

With regard to claim 7, at least some of the apertures extend through at least one of the hook material and loop material and the portion of the body portion to which at least one hook material and loop material is joined.

With regard to claim 9, the invention is disclosed in one or more of the above rejections.

With regard to claim 10, the body portion of the glove is leather as is conventional in the art.

Allowable Subject Matter

5. Claims 8 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Barthelemy et al. '288 discloses an article of wear manufactured from breathable material such as leather.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary L. Welch whose telephone number is (571) 272-4996. The examiner can normally be reached on Mon-Fri 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gary L. Welch
Primary Examiner
Art Unit 3765

glw